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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CHARLES SCOTT KELLAR,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 65450</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on March 27, 2015, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by David M. Burrup, Agent. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2014 actual value of the subject property.

Subject property is described as follows:

**21441 Falcon Wing Road, Indian Hills, Colorado
Jefferson County Schedule No. 202534**

The subject property consists of a 6,308-square-foot single family residence situated on a 35-acre site. The two-story residence includes four bedrooms, 5 ½ baths, 2 fireplaces, and an attached garage. A conservation easement restricts development of the site to a single residence, barn and garage within a specified 2.7-acre privacy envelope.

The subject was purchased in November of 2011 for \$610,000. At the time of sale, the residence, which was constructed in 1953, was in fair to poor condition. After the purchase, a building permit was issued for an addition to living area, attached garage and extensive remodeling. The final certificate of completion was issued in July of 2013. The subject had previously sold in March of 2009 for \$655,000.

Petitioner is requesting an actual value of \$750,000 for the subject property for tax year 2014. Respondent assigned a value of \$1,083,790 for the subject property for tax year 2014.

David Burrup, Elite Property Services Inc., Agent for Petitioner, gave consideration to the 2009 and 2011 sales of the subject and presented an additional 14 comparable sales, including two that were disqualified at the hearing as they transacted outside the base period. The remaining 12 sales ranged in sales price from \$395,000 to \$2,000,000 and in size from 5,585 to 13,506 square feet. Mr. Burrup provided a qualitative analysis of the sales compared to the subject without specifying quantitative adjustments.

Petitioner is requesting a 2014 actual value of \$750,000 for the subject property.

Respondent presented a value of \$1,585,500 for the subject property based on the market approach.

Respondent's witness, Laura Burtschi, appraiser in the Jefferson County Assessor's Office, presented three comparable sales ranging in sale price from \$990,000 to \$2,000,000 and in size from 5,123 to 5,555 square feet. After adjustments were made, the sales ranged from \$1,171,175 to \$2,054,290. Ms. Burtschi concluded to a value of \$1,585,500 based on the market approach. All three of Respondent's sales were also considered by Petitioner.

Respondent assigned an actual value of \$1,083,790 to the subject property for tax year 2014.

Petitioner contends that despite improvements made subsequent to the 2011 sale, the subject's condition is inferior to the sales considered by Respondent. Further, Mr. Burrup testified that the restrictions of the conservation easement further reduced the value of the subject.

Of the three sales analyzed by Respondent, two were encumbered by conservation easements similar to the subject. Respondent's witness, Michael H. Early, appraiser at the Jefferson County Assessor's Office, testified that while the subject's A-2 zoning would allow further subdivision into 10-acre lots, the subject lacks the water to qualify for subdivision, rendering the presence of the conservation easement to be inconsequential.

As noted by Petitioner's agent, Mr. Burrup,

“A taxpayer thus must prove by a preponderance of the evidence only that an assessment is incorrect to prevail at a board of assessment appeals proceeding and is not required to establish an appropriate basis for an alternative reduced valuation for the property at issue.” *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005).

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2014. Although Petitioner called into question the adjustments made by Respondent to the three sales used by both parties, Petitioner presented insufficient evidence to determine if additional adjustments were required or the magnitude of those adjustments, if any.

Further, Petitioner's comparable sales indicated a broad range in value for the subject, with no adjustments made to support a change in value for the subject. Petitioner did not convince the Board that Respondent's methodology in valuing the subject was incorrect.

Although Mr. Burrup testified extensively to the need to reduce the value as a consequence of the conservation easement, two of Respondent's sales which were encumbered by similar easements supported no such adjustment. Respondent's witness provided persuasive testimony that convinced the Board that an adjustment for the presence of such easement was unnecessary.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 6th day of April, 2015.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Sondra W Mercier

Sondra Mercier

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

